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13 RAMESH “SUNNY” BALWANI

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN JOSE DIVISION

17 UNITED STATES OF AMERICA,
18 Plaintiff,
19 v.
20 RAMESH “SUNNY” BALWANI,
21 Defendant.

Case No. 18-CR-00258-EJD

**DEFENDANT RAMESH “SUNNY”
BALWANI’S ADMINISTRATIVE
MOTION TO CLARIFY COURT’S
ORDER REGARDING REPORTING
DATE**

Hon. Edward J. Davila

**NOTICE OF MOTION AND ADMINISTRATIVE MOTION
TO CLARIFY COURT'S ORDER REGARDING REPORTING DATE**

PLEASE TAKE NOTICE that in the above-captioned case, before the Honorable Edward J. Davila, Defendant Ramesh "Sunny" Balwani hereby respectfully moves the Court to clarify its ruling regarding the date on which Mr. Balwani is scheduled to report to the Bureau of Prisons. The Motion is based on the below Memorandum of Points and Authorities, the record in this case, and any other matters that the Court deems appropriate.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Defendant Ramesh “Sunny” Balwani, by undersigned counsel, respectfully moves to
 3 clarify the Court’s order regarding the status of his Bureau of Prisons reporting date while he
 4 awaits the Court’s ruling on his motion for release pending appeal. At the hearing on February
 5 17, 2023, the Court stated:

6 I think the parties are aware, I have set a surrender date and that day—I’m not
 7 going to disturb that date today. But as you know, the Court is taking this under
 8 submission. It naturally extends that surrender date until you get an order. I hope
 to get something out to you shortly.

9 02/17/2023 Hr’g Tr. 67. At sentencing, the Court set March 15, 2023 as the date for Mr. Balwani
 10 to report. Dkt. 1682.

11 Mr. Balwani believes that the Court’s statement constitutes an order that he will not have
 12 to report to BOP before the Court rules on the pending release motion. But in an abundance of
 13 caution, Mr. Balwani seeks to clarify that order or otherwise reduce it to writing. As laid out in
 14 the accompanying proposed order, he seeks to clarify that, if the Court does not rule on the
 15 release motion by March 15, 2023, he is not required to report on that date. Such a stay of the
 16 reporting date is not automatic in this Court as it is in the Court of Appeals. *See* 9th Cir. R. 9-
 17 1.2(e).

18 If the Court denies Mr. Balwani’s motion for release, Mr. Balwani would ask the Ninth
 19 Circuit Court of Appeals for relief. *See* 18 U.S.C. 3145(c); Fed. R. App. P. 9(b); 9th Cir. R. 9-
 20 1.2. In that event, Mr. Balwani would need to address relevant points from this Court’s ruling in
 21 a motion filed with the Court of Appeals. For this reason, Mr. Balwani requests that the Court
 22 order that his BOP reporting date will be no earlier than one week after this Court rules on his
 23 pending motion for release.

24 Finally, on March 8, 2023, Mr. Balwani learned that BOP disregarded this Court’s
 25 recommendation and designated Mr. Balwani to serve his sentence at the U.S. Penitentiary in
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1 Atlanta, Georgia. Particularly because of this facility's reputation for horrific conditions,¹
2 Mr. Balwani requests that the Court order the modest adjustment in the accompanying proposed
3 order so that he will not have to report to USP-Atlanta before counsel can, if necessary, properly
4 prepare an appellate motion.

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6 Dated: March 8, 2023

Respectfully submitted,
ORRICK, HERRINGTON & SUTCLIFFE LLP

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8 *s/Jeffrey B. Coopersmith*

JEFFREY B. COOPERSMITH

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10 Attorney for Defendant
RAMESH "SUNNY" BALWANI

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27 ¹ See Glenn Thrush, "Prison Personnel Describe Horrific Conditions, and Cover-Up, at Atlanta
28 Prison," *New York Times* (July 26, 2022),
<https://www.nytimes.com/2022/07/26/us/politics/atlanta-federal-prisons-corruption.html>.